

Department of Transportation

1252.216-72

(End of provision)

[64 FR 2439, Jan. 14, 1999]

1252.215-70 Key personnel and/or facilities.

As prescribed in (TAR) 48 CFR 1215.106, insert the following clause:

KEY PERSONNEL AND/OR FACILITIES (OCT 1994)

(a) The personnel and/or facilities as specified in paragraph (c) are considered essential to the work being performed hereunder and may, with the consent of the contracting parties, be changed from time to time during the course of the contract by adding or deleting personnel and/or facilities, as appropriate.

(b) Prior to removing, replacing, or diverting any of the specified individuals or facilities, the Contractor shall notify, in writing, and receive consent from, the Contracting Officer reasonably in advance of the action and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract.

(c) No diversion shall be made by the Contractor without the written consent of the Contracting Officer. The Contracting Officer may ratify, in writing, the change and such ratification shall constitute the consent of the Contracting Officer required by this clause.

The Key Personnel and/or Facilities under this Contract:

(Specify key personnel and/or facilities)

(End of clause)

[59 FR 40228, Aug. 8, 1994]

EDITORIAL NOTE: At 64 FR 2439, Jan. 14, 1999, section 1252.215-70, first paragraph, was amended by removing the citation "A(TAR) 48 CFR 1215.106" and adding in its place the citation "A(TAR) 48 CFR 1215.204-3". This citation did not exist in the 1998 Code of Federal Regulations and could not be incorporated.

1252.216-70 Evaluation of offers subject to an economic price adjustment clause.

As prescribed in (TAR) 48 CFR 1216.203-470, insert the following provision:

EVALUATION OF OFFERS SUBJECT TO AN ECONOMIC PRICE ADJUSTMENT CLAUSE (OCT 1994)

Offers shall be evaluated without an amount for an economic price adjustment being added. Offers will be rejected which: (1) Increase the ceiling stipulated; (2) limit the

downward adjustment; or (3) delete the economic price adjustment clause. If the offer stipulates a ceiling lower than that included in the solicitation, the lower ceiling will be incorporated into any resulting contract.

(End of provision)

1252.216-71 Determination of award fee.

As prescribed in (TAR) 48 CFR 1216.405(a), insert the following clause:

DETERMINATION OF AWARD FEE (OCT 1994)

(a) The Government shall, at the conclusion of each specified evaluation period(s), evaluate the contractor's performance for a determination of award fee earned. The contractor agrees that the determination as to the amount of the award fee earned will be made by the Government Fee Determination Official (FDO) and such determination is binding on both parties and shall not be subject to appeal under the "Disputes" clause or to any board or court.

(b) It is agreed that the evaluation of contractor performance shall be in accordance with a Performance Evaluation Plan and that the contractor shall be promptly advised in writing of the determination and reasons why the award fee was or was not earned. It is further agreed that the contractor may submit a self-evaluation of performance of each period under consideration. While it is recognized that the basis for the determination of the fee shall be the evaluation by the Government, any self-evaluation which is received within _____ (insert number) days after the end of the period being evaluated may be given such consideration, if any, as the FDO shall find appropriate.

(c) The FDO may specify in any fee determination that fee not earned during the period evaluated may be accumulated and be available for allocation to one or more subsequent periods. In that event, the distribution of award fee shall be adjusted to reflect such allocations.

(End of clause)

[59 FR 40228, Aug. 8, 1994]

EDITORIAL NOTE: At 64 FR 2439, Jan. 14, 1999, section 1252.216-71, first paragraph, was amended by removing the citation "A(TAR) 48 CFR 1216.405(a)" and adding in its place the citation "A(TAR) 48 CFR 1216.406". This citation did not exist in the 1998 Code of Federal Regulations and could not be incorporated.

1252.216-72 Performance evaluation plan.

As prescribed in (TAR) 48 CFR 1216.405(b), insert the following clause:

1252.216-73

PERFORMANCE EVALUATION PLAN (OCT 1994)

(a) A Performance Evaluation Plan shall be unilaterally established by the Government based on the criteria stated in the contract and used for the determination of award fee. This plan shall include the criteria used to evaluate each area and the percentage of award fee (if any) available for each area. A copy of the plan shall be provided to the contractor _____ (insert number) calendar days prior to the start of the first evaluation period.

(b) The criteria contained within the Performance Evaluation Plan may relate to: (1) Technical (including schedule) requirements if appropriate; (2) Management; and (3) Cost.

(c) The Performance Evaluation Plan may, consistent with the contract, be revised unilaterally by the Government at any time during the period of performance. Notification of such changes shall be provided to the contractor _____ (insert number) calendar days prior to the start of the evaluation period to which the change will apply.

(End of clause)

[59 FR 40228, Aug. 8, 1994]

EDITORIAL NOTE: At 64 FR 2439, Jan. 14, 1999, section 1252.216-72, first paragraph, was amended by removing the citation "A(TAR) 48 CFR 1216.405(b)" and adding in its place the citation "A(TAR) 48 CFR 1216.406". This citation did not exist in the 1998 Code of Federal Regulations and could not be incorporated.

1252.216-73 Distribution of award fee.

As prescribed in (TAR) 48 CFR 1216.405(c), insert the following clause:

DISTRIBUTION OF AWARD FEE (OCT 1994)

(a) The total amount of award fee available under this contract is assigned according to the following evaluation periods and amounts:

Evaluation Period:

Available Award Fee:

(insert appropriate information)

(b) Payment of the base fee and award fee shall be made, provided that after payment of 85 percent of the base fee and potential award fee, the Government may withhold further payment of the base fee and award fee until a reserve is set aside in an amount that the Government considers necessary to protect its interest. This reserve shall not exceed 15 percent of the total base fee and potential award fee or \$100,000, whichever is less.

(c) In the event of contract termination, either in whole or in part, the amount of award fee available shall represent a prorata distribution associated with evaluation pe-

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riod activities or events as determined by the Government.

(d) The Government will promptly make payment of any award fee upon the submission by the contractor to the contracting officer's authorized representative, of a public voucher or invoice in the amount of the total fee earned for the period evaluated. Payment may be made without using a contract modification.

(End of clause)

[59 FR 40228, Aug. 8, 1994]

EDITORIAL NOTE: At 64 FR 2439, Jan. 14, 1999, section 1252.216-73, first paragraph, was amended by removing the citation "A(TAR) 48 CFR 1216.405(c)" and adding in its place the citation "A(TAR) 48 CFR 1216.406". This citation did not exist in the 1998 Code of Federal Regulations and could not be incorporated.

1252.216-74 Settlement of letter contract.

As prescribed in (TAR) 48 CFR 1216.603-4, insert the following clause:

SETTLEMENT OF LETTER CONTRACT (OCT 1994)

(a) This contract constitutes the definitive contract contemplated by issuance of letter contract _____ (insert number) dated _____ (insert effective date). It supersedes the letter contract and its modification number(s) _____ (insert number(s)) and, to the extent of any inconsistencies, governs. (b) The cost(s) and fee(s), or price(s), established in this definitive contract represents full and complete settlement of letter contract _____ (insert number and modification number(s)) _____ (insert number(s)). Payment of the agreed upon fee or profit withheld pending definitization of the letter contract, may commence immediately at the rate and times stated within this contract.

(End of clause)

1252.217-71 Delivery and shifting of vessel.

As prescribed at 1217.7000 (a) and (b), insert the following clause:

DELIVERY AND SHIFTING OF VESSEL (OCT 1994)

The Government shall deliver the vessel to the Contractor at his place of business. Upon completion of the work, the Government shall accept delivery of the vessel at the Contractor's place of business. The Contractor shall provide, at no additional charge, upon 24 hours' advance notice, a tug or tugs and docking pilot, acceptable to the Contracting Officer, to assist in handling the